

## ***DETAILED ACTION***

### ***Status of the Claims***

Claims 3, 4, 7, 8, 9, 11 and 12 have been canceled. Therefore, claims 1, 2, 5, 6, 10 and 13 are currently pending in this application. Claim 13 is withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention. The withdrawn subject matter is patentably distinct from the elected subject matter as it differs in structure and element and would require separate search considerations. In addition, a reference, which anticipates one group, would not render obvious the other.

### ***Previous objections***

Claims 1-6 and 10 were objected to for containing non-elected subject matter. Applicants canceled claims 3 and 4 and amended claim 1 to overcome the objections.

### ***Rejoinder***

In accordance with M.P.EP 821.04 and In re Ochiai, 71 F.3d 1565, 37 USPQ 1127 (Fed. Cir. 1995), rejoinder of product claims with process claims commensurate in scope with the allowed product claims will occur following a finding that the product claims are allowable. Since the product claims were found allowable, claim 13, which is directed to method of use claim, has been rejoined with the allowed product. Therefore, the restriction between the compounds and the method is hereby withdrawn.

### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization to this Examiner's Amendment was given in a telephone interview with John C. Todaro, on February 28, 2008. The application has been amended as follows:

**In claim 5, line 1, DELETE** the terms " 4" and **INSERT ---1---**

**In claim 6, line 1, DELETE** the terms " 4" and **INSERT ---1---**

**Telephone Inquiry**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal A Saeed whose telephone number is (571) 272-0705. The examiner can normally be reached on M-T 7:00 AM- 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise requires a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy

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89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or public PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

/Kamal A Saeed, Ph.D./  
Primary Examiner, Art Unit 1626

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